

Attorney Docket No.: 238096US-21

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Trademark: LEXUS

Application Serial No.: 78/145,546

Applicant: Syngenta Participations AG

Filing Date: July 19, 2002

Published on May 6, 2003,  
in Official Gazette, Volume 1270,  
No. 1, at Page TM 148.

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INFORMATION AND  
COMMUNICATIONS  
DIVISION

Toyota Jidosha Kabushiki Kaisha,	)
t/a Toyota Motor Corporation,	)
	)
-and-	)
	)
Toyota Motor Sales, U.S.A., Inc.,	)
	)
Opposers	)
	)
v.	)
	)
Syngenta Participations AG,	)
t/a Syngenta Crop Protection, Inc.	)
Applicant	)

Opposition No.:  
Appln. Serial No.: 78/145,546  
Mark: LEXUS

06/18/2003 EPINAI 00000031 78145546

01 FC:6402

300.00 OP

**NOTICE OF OPPOSITION**

Toyota Jidosha Kabushiki Kaisha, t/a Toyota Motor Corporation, located at 1, Toyota-cho, Toyota-shi, Aichi-ken, 471-8571, Japan, (hereafter "Toyota") and Toyota Motor Sales, U.S.A., Inc. a corporation of the State of California, located at 19001 South Western Avenue

06/18/2003 EPINAI 00000029 78145546

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A107, Torrance, California 90501, (hereafter "TMS) believe that they will be damaged by the registration of the mark in the Application identified above and oppose the registration of the mark. As ground for the opposition, Opposers allege:

1. Syngenta Participations AG, of Basel, Switzerland (hereafter "Syngenta") filed Application Serial No. 78/145,546 on July 19, 2002 to register LEXUS for preparations for destroying vermin; pesticides, insecticides, fungicides and herbicides for agricultural use, under 15 U.S.C. § 1051(b).
2. On information and belief, Syngenta has not used LEXUS as a trademark in connection with any goods either within the United States or in commerce between the United States and any foreign country and cannot claim the benefit of any date earlier than July 19, 2002.
3. Since a date long prior to the filing of Application Serial No. 78/145,546, Toyota has manufactured and has, through its indirectly wholly-owned subsidiary, Toyota Motor Sales, U.S.A., Inc., sold in the United States luxury motor vehicles, which include automobiles and sport utility vehicles, under the trademark LEXUS and other goods and services, all under the trademark and service mark LEXUS.
4. Toyota's LEXUS motor vehicles have been widely and continuously promoted by various means and have been advertised in print and broadcast media since at least as early as 1989 and have been sold in great numbers throughout the United States.

5. Toyota's LEXUS services have been widely and continuously promoted and advertised since 1989 and have been rendered throughout the United States.

6. Toyota's trademark and services mark LEXUS is an arbitrary, invented term and as such is an inherently distinctive trademark.

7. Toyota's trademark and service mark LEXUS has been registered in the United States Patent and Trademark Office as follows:

Mark	Registration No.	Registration Date	Goods/Services
LEXUS	1,574,718	January 2, 1990	Automobiles
LEXUS	1,675,339	February 11, 1992	Repair and maintenance services for automotive vehicles; automotive vehicle leasing services
LEXUS	1,739,201	December 8, 1992	Financing the purchasing and leasing of automobiles
LEXUS & L Design	1,814,753	January 4, 1994	Cellular telephones

Mark	Registration No.	Registration Date	Goods/Services
LEXUS & L Design	1,834,147	May 3, 1994	<p>Key rings, in International Class 6</p> <p>Sunglasses, binoculars, and compact disc holders, in International Class 9</p> <p>Clocks and world time clocks, in International Class 14</p> <p>Ballpoint pens, in International Class 16</p> <p>Umbrellas and attaché case, in International Class 18</p> <p>Non-metal key rings and key chains, in International Class 20</p> <p>Drinking cups, in International Class 21</p> <p>Jackets, sweat shirts, caps, sweaters, polo shirts, sport shirts, pullovers, windbreakers, visors, golf shirts, and crewnecks, in International Class 25</p> <p>Golf balls, golf bags, golf bag travel covers, head covers for golf clubs, and golf ball spotters, in International Class 28</p>
LEXUS EXTRA CARE	1,871,549	January 3, 1995	<p>Administration of financial and insurance service agreements providing for repairs of automotive vehicles, towing, gas delivery, and flat tire service for disabled vehicles; reimbursement for substitute transportation, lodging, and meals; and motor vehicle insurance underwriting</p>

8. Each of the above registrations is subsisting and each of the registrations has had Declarations under §§ 8 and 15 of the Trademark Act [15 USC §§ 1058 and 1065] accepted and acknowledged. Registrations No. 1,574,718, No. 1,675,339, and No. 1,739,201 have been renewed.

9. Toyota's trademark and service mark LEXUS became a famous mark in the United States long prior to the filing of Application Serial No. 78/145,546 on July 19, 2002, or any earlier date which Syngenta may claim for its mark, and Toyota's LEXUS mark remains a famous mark in the United States to the present time.

10. Toyota's trademark and service mark LEXUS is a rare and highly distinctive mark.

11. The registration of LEXUS as a trademark by Syngenta would dilute the fame, singularity, and distinctiveness of Toyota's LEXUS mark and would thereby cause great harm to Toyota.

12. The registration of LEXUS as a trademark of Syngenta would be in derogation of Toyota's rights and in violation of 15 U.S.C. § 1052(f), last paragraph; 15 U.S.C. § 1063(a); and 15 U.S.C. § 1125(c)(1).

13. TMS is a wholly-owned subsidiary of a wholly-owned subsidiary of Toyota.

14. Commencing in 1989 and continuously to the present time, TMS has had a separate division, named the LEXUS division, which has been responsible for the sale and servicing of Toyota's LEXUS automobiles and sports utility vehicles in the United States.

15. The name LEXUS has been widely used in printed sales and promotional literature, vehicle manuals, and in advertising for LEXUS vehicles.

16. The name LEXUS is well-known in the United States and enjoys an extensive and very favorable goodwill.

17. The name LEXUS points uniquely to the LEXUS division of TMS and identifies the division and its business.

18. The trademark LEXUS of Application Serial No. 78/145,546 is identical to the name LEXUS of TMS's LEXUS division.

19. There is no connection between the business of the LEXUS division of TMS and the business or products of Applicant Syngenta.

20. The name LEXUS is of sufficient fame that, if LEXUS were used as a trademark for Applicant's products, a connection with TMS's LEXUS division would be presumed by prospective and actual purchasers of Applicant's products.

21. Applicant's LEXUS mark falsely suggests a connection with the LEXUS division of Opposer TMS.

22. The registration of LEXUS as a trademark of Syngenta would be in derogation of the rights of TMS and in violation of 15 U.S.C. § 1052(a).

WHEREFORE, Toyota and TMS pray that this opposition be sustained and that registration on Application Serial 78/145,546 be refused.

Respectfully submitted,

Toyota Jidosha Kabushiki Kaisha  
t/a Toyota Motor Corporation

-and-

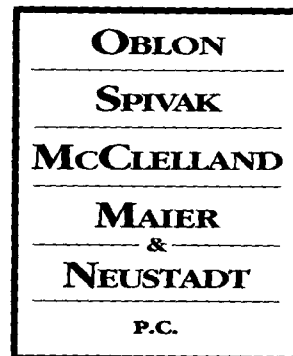
Toyota Motor Sales, U.S.A., Inc.

By:

  
David J. Kera  
Jordan S. Weinstein  
Amy C. Sullivan  
Oblon, Spivak, McClelland,  
Maier and Neustadt, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
(703) 413-3000  
fax: (703) 413-2220  
email: [Dkera@oblon.com](mailto:Dkera@oblon.com)

Date: June 17, 2003

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June 17, 2003

Honorable Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

ATTORNEYS AT LAW  
DAVID J. KERA  
(703) 412-6456  
DKERA@OBLON.COM

Re: Toyota Jidosha Kabushiki Kaisha  
t/a Toyota Motor Corporation  
Matter: TOYOTA JIDOSHA KABUSHIKI KAISHA v.  
Syngenta Participations AG  
U. S. Appln. Serial No.: 78/145,546  
Class(es): 5  
Atty Dkt. No.: 238096US-0213-21

Dear Commissioner:

We enclose the following for filing in the U.S. Patent and Trademark Office:

☒ Notice of Opposition to Serial No. 78/145,546

Also enclosed is our check for the required filing fee in the amount of \$300.00.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 50-2014.

Respectfully submitted,

OBLON, SPIVAK, MCCLELLAND,  
MAIER & NEUSTADT, P.C.

  
David J. Kera

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TRADEMARK OFFICE